

RICHARD SEGERBLOM, ESQ.
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704 South Ninth Street
Las Vegas, Nevada 89101
Tel: (702) 388-9600
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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

ETHEL WASHINGTON,

Plaintiff,

vs.

CERTAINTEED GYPSUM, INC.,

,

Defendant.

COMPLAINT
(Jury Demanded)

COMES NOW Plaintiff and complains of Defendant as follows:

First Cause of Action

I.

This is a civil rights in employment lawsuit based upon Title VII and the ADEA. Jurisdiction and venue are based upon those statutes.

II.

Plaintiff Ethel Washington is an African-American female born in 1942. She is employed by Defendant Certainteed Gypsum, Inc. in Clark County, Nevada. Defendant Certainteed Gypsum, Inc., is a Nevada Corporation doing business in Clark County, Nevada.

III.

Plaintiff has been employed by Defendant since 1986. She was denied a promotion

1 in November, 2008, primarily because of her race, sex and/or age. After she filed an
2 EEOC complaint alleging she was denied the promotion for discriminatory reasons
3 Washington was given poor performance appraisals and a negative write-up in retaliation.
4 Plaintiff amended her charge at that time to include retaliation.

5 IV.

6 Plaintiff filed a charge of discrimination and a copy of that charge is attached
7 hereto and incorporated by reference. Plaintiff has received a right to sue letter based
8 upon that charge and a copy of that letter is also attached hereto

9 V.

10 As a direct result of the Defendant's unlawful conduct the Plaintiff has suffered
11 financial loss and emotional distress, the full extent of which is as yet unknown.

12 VI.

13 Defendant's conduct was intentional and done with a conscious disregard for
14 Plaintiff's federally protected rights.

15 WHEREFORE, Plaintiff prays for the following relief:

- 16 1. Retroactive promotion with full backpay, benefits and prejudgment interest;
17 2. Liquidated damages;
18 3. Compensatory damages in an amount of \$300,000;
19 4. Punitive damages in an amount of \$300,000;
20 5. Attorney's fees and costs of suit; and
21 6. Such other and further relief as the Court may wish to entertain.

22 DATED this 15th day of February, 2010.

23
24 
25 RICHARD SEGERBLOM, ESQ.
26 704 South Ninth Street
27 Las Vegas, Nevada 89101
28 Attorney for Plaintiff

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☒ FEPA

0108-09-0012L

☒ EEOC

34B-2009-00407

Nevada Equal Rights Commission

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Ethel Washington

Home Phone (Incl. Area Code)

(702) 526-0269

Date of Birth

12-10-1954

Street Address

City, State and ZIP Code

2470 Old Forge Ln # 53, Las Vegas, NV 89121

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

CERTAINTED GYPSUM INC

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(702) 875-4111

Street Address

City, State and ZIP Code

Hcr 89033 Box 2900, Las Vegas, NV 89124

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☒ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

11-18-2008

02/19/2009



CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

AMENDED CHARGE

THIS CHARGE IS BEING AMENDED TO INCLUDE RETALIATION. "SINCE FILING MY NERC CHARGE ON 12-22-08, I HAVE BEEN RETALIATED AGAINST BY PLANT MANAGER, GLEN ABRAHAM AND BY THE NEW PRODUCTION MANAGER, JAMES TURBA. IN FEBRUARY 2009, I RECEIVED MY YEARLY PERFORMANCE APPRAISAL. I WAS RATED BELOW STANDARDS IN 2 OUT OF 11 COMPETENCIES, AND ONLY PARTIALLY PROFICIENT IN 2 OUT OF 4 SKILLS AREAS. MY PREVIOUS YEAR'S APPRAISAL RATED ME AS EFFECTIVE OR VERY EFFECTIVE IN ALL AREAS.

ON OR ABOUT 2-19-09, I RECEIVED A WRITE-UP FROM MR. TURBA THAT WAS UNWARRANTED. I HAVE NO PREVIOUS DISCIPLINES IN MY FILE IN 23 YEARS OF EMPLOYMENT."

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

x Ethel Washington

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

x 4/21/08

Date

x Ethel Washington

Charging Party Signature

CHARGE OF DISCRIMINATION

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☒ FEPA

0108-09-0012L

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34B-2009-00407

Nevada Equal Rights Commission

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I believe that I was discriminated against because of my sex, Female, race, Black, and age, 54. On or about November 18, 2008, I was denied a promotional opportunity. I filed my complaint with the Nevada Equal Rights Commission on December 22, 2008.

On or about August 20, 1986, I was hired. I am currently working as a Production Supervisor.

Fail to Promote: During the month of July 2008, the position of Production Manager (PM) became vacant. I am well qualified for the position. I perform the PM's duties on a routine basis, whenever he was absent from the plant, such as when he was on vacation. When the PM was present I would perform nearly 75% of the duties. This would enable the PM to perform more important tasks.

On or about July 15, 2008, I interviewed two younger white males for the position. Shortly thereafter, on or about July 24, 2008, I submitted my application for the position. The VP was aware that I applied for the position. The VP was surprised when I informed him that I was not interviewed for the position. He had instructed Glen (Inu), Plant manager to interview me. Glen failed to interview me for the position. Glen told me that filling the position was "political".

On or about November 18, 2008, James Turba, a younger white male was selected for the position. Mr. Turba was one of the two white males, interviewed during July 2008.

I was discriminated against because of my sex, race, and age, in violation of Title VII of the Civil Rights Act of 1964; The Age Discrimination in Employment Act; and applicable State Laws.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature

x 4/21/09 x Ethel Washington

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Ethel Washington**
2470 Old Forge Ln # 53
Las Vegas, NV 89121

From: **Los Angeles District Office**
255 E. Temple St. 4th
Los Angeles, CA 90012



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

34B-2009-00407

Sara M. Aguirre,
State & Local Coordinator

(213) 894-1100**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

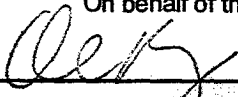
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Olophius E. Perry,
District Director

January 28, 2010

(Date Mailed)

Enclosures(s)

cc:

Kathie Toth
Corp. HR Manager
CERTAINTED GYPSUM, INC.
4300 West Cypress Street, Suite 500
Tampa, FL 33607